IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.479 OF 2003

Sham Krishna Nazre ...Applicant

Versus

State of Maharashtra & Anr. ...Respondents

ALONG WITH

CRIMINAL REVISION APPLICATION NO.480 OF 2003

Sham Krishna Nazre ...Applicant

Versus

Vinod Laxman Dhumal & Anr. ...Respondents

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Mr.Kuldeep Patil for Applicant.

Mr.K.V.Saste, A.P.P. for Respondent No.1 in CRA 479/03 & Respondent No.2 in CRA 480/03.

Mr.N.V.Vechalekar for Respondent No.2 in CRA 479/03 & Respondent No.1 in CRA 480/03.

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CORAM: A.M.KHANWILKAR, J.

MARCH 10, 2005.

P.C.

1. Heard Counsel for the parties.

2. Common question is raised in these two Revision Applications. Two separate criminal cases were filed against the Applicant in respect of two dishonoured cheques issued by him. Insofar as merits are concerned, two Courts have recorded concurrent finding of facts and I am not inclined to interfere with the same, as there is no infirmity.

3. I had issued notice in both these Revision Applications on the assurance given at the relevant time that the Applicant would make attempt to pay the amount in question to the Respondent/private complainant. Accordingly, the matters are listed and in fact, Counsel for the private Complainant/Respondent showed willingness to accept the amount and not to precipitate the matter. Matter has been adjourned more than once, but now I am informed that the Applicant will not be able to pay the amount as directed by the lower Court as compensation to be paid to the contesting Respondents. In this view of the matter, I have no option but to decide the matter on its own merits.

4. As mentioned earlier, I see no infirmity in the concurrent view taken by the two Courts below. The only argument that was vehemently pressed into service on behalf of the Applicant is that the Court ought to have made sentence to run concurrently, as both the criminal cases were initiated against the Applicant, in respect of similar offence regarding dishonour of two separate cheques. That request, in the first place, ought to have been made before the lower Court which was the appropriate Court to consider the said prayer. Neither that argument was canvassed before the lower Court nor before the Appellate Court.

5. In my opinion, even if the Applicant is permitted to canvass that point before this Court for the first time, the same is devoid of merits. This is not a case where any indulgence can be shown to the Applicant to make the sentence to run concurrently because the Applicant has been tried for two separate offences committed by him.

6. Inspite of opportunity given to the Applicant to remedy the mistake, the Applicant is unwilling to pay the amount on specious reasoning, that he is not in a position to honour his commitment. Besides, even though the Applicant has already undergone two months sentence, that alone cannot be the basis to direct that the sentences in two different cases, to run concurrently.

7. In the peculiar facts of the present case, the request for directing the sentences to run concurrently, cannot be acceded to. Hence, there is no substance in these Applications. Both the Applications fail and are dismissed.

A.M.KHANWILKAR, J.